

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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KYLE BRAGG, *as Trustee*, BUILDING
SERVICES 32BJ PENSION FUND, BUILDING
SERVICE 32BJ LEGAL SERVICES FUND,
BUILDING SERVICE 32BJ THOMAS
SHORTMAN TRAINING, SCHOLARSHIP, AND
SAFETY FUND, and BUILDING SERVICE 32BJ
SUPPLEMENTAL RETIREMENT AND SAVINGS
PLAN,

Petitioners,

-against-

TRIANGLE SERVICES, INC.,

Respondent.

1:24-cv-7725-MKV

1:25-cv-62-MKV

**ORDER CONSOLIDATING CASES
AND SCHEDULING ORDER**

KYLE BRAGG, *as Trustee*,

Petitioner,

-against-

TRIANGLE SERVICES, INC.,

Respondent.

MARY KAY VYSKOCIL, United States District Judge:

Petitioners in *Bragg et al. v. Triangle Services, Inc.*, No. 24-cv-7725, initiated that action by filing a petition to confirm an arbitration award in the Supreme Court of New York, County of New York [24-cv-7725, ECF No. 1-6 (the “First Petition”)]. Respondent timely removed that action to this Court, invoking the Court’s federal question jurisdiction [24-cv-7725, ECF No. 1]. Petitioners do not contend that the removal was improper. However, Petitioners contend that Respondent forfeited its opportunity to oppose the First Petition when Respondent removed the action on the state-court deadline to file an opposition without simultaneously filing an opposition

[24-cv-7725, ECF Nos. 6, 7, 11]. Respondent counters that, because it properly removed the action, the Federal Rules of Civil Procedure govern the deadlines in this case [24-cv-7725, ECF No. 10 (citing *Granny Goose Foods, Inc. v. Teamsters Local 70*, 415 U.S. 423, 437 (1974))]. Respondent seeks leave to file a motion to vacate the award at issue in the First Petition [24-cv-7725, ECF No. 13]. In light of this Circuit's strong preference for resolution of disputes on the merits, *see Cody v. Mello*, 59 F.3d 13, 15 (2d Cir. 1995), Petitioners' request the Court treat the First Petition as unopposed [ECF Nos. 6, 7, 11] is DENIED.

As the parties are aware, Petitioner in *Kyle Bragg v. Triangle Services, Inc.*, No. 25-cv-62, has filed in this Court a petition to confirm a second arbitration award against Respondent [25-cv-62, ECF No. 1]. IT IS HEREBY ORDERED that *Kyle Bragg v. Triangle Services, Inc.*, No. 25-cv-62, shall be consolidated with *Bragg et al. v. Triangle Services, Inc.*, No. 24-cv-7725, on consent of all parties [24-cv-7725, ECF Nos. 15, 16]. All further submissions by the parties shall be filed in case number 24-cv-7725.

IT IS FURTHER ORDERED that by May 13, 2025 Petitioners shall file a consolidated motion to confirm its arbitration awards [*see* 25-cv-62, ECF No. 6]. Respondent shall oppose by May 27, 2025 [*see* 24-cv-7725, ECF No. 13]. Any reply is due June 3, 2025.

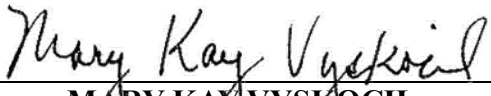
IT IS FURTHER ORDERED that Petitioners' motion for sanctions [24-cv-7725, ECF Nos. 17, 21; 25-cv-62, ECF Nos. 10, 13] is DENIED without prejudice for failing to comply with the Court's Individual Rules of Practice in Civil Cases. Both sides shall address the sanctions issue in the briefing of the consolidated motion set forth above.

IT IS FURTHER ORDERED that the conference that was previously scheduled to take place on May 1, 2025 is ADJOURNED *sine die*.

The Clerk of Court respectfully is requested to file this Order in both of the above-captioned cases. The Clerk of Court is further requested to terminate all pending motions in both cases and to close case number 25-cv-62.

SO ORDERED.

**Date: April 28, 2025
New York, NY**



**MARY KAY VYSKOCIL
United States District Judge**